TABLE OF CONTENTS

SH 2439345

MISCELLANEOUS DOCUMENTS

Sergeant Moylan's handgun qualification records.

Suspect Malca's medical records.

Compact disk containing five Involved Employees (Moylan/ Dall/ Roberts/Benning/Lewis-[redacted] declining to be interviewed.

(5) Signed Administrative Rights Force/ Shooting Investigation forms.

Copy of 5-09/210.04 MPP; Pursuits Involving Police Motorcycles, Non-Pursuit Rated Police Vehicles, or Vehicles Not Equipped with Overhead Emergency Lights, or Unmarked Police Vehicles.

SH-AD-32A (8/17)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service Since 1850"

DATE: September 1, 2021

FILE NO: 017-02051-8548-053

OFFICE CORRESPONDENCE

FROM: WILLIAM E. JAEGER, COMMANDER
PROFESSIONAL STANDARDS DIVISION

TO: BRITTA S. STEINBRENNER, CAPTAIN
COUNTY SERVICES BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS

Case Number:	SH2439345/IV2441856
Incident:	Hit Shooting
Incident Date:	October 31, 2017
Unit:	County Services Bureau
Suspect(s):	Malca, Sason MH/120484
Involved Employees:	Sergeant Charles J. Moylan, #[redacted]
EFRC Date:	August 5, 2021

The Executive Force Review Committee (EFRC) consisting of Commanders Jose J. Rios, Alfred M. Reyes, and William E. Jaeger (Chair) met and reviewed the above case.

FINDINGS:

The EFRC determined the tactics, use of force, and pursuit were not within Department policy.

The facts in this investigation support the following charges:

1. That in violation of the Department's Manual of Policy and Procedures Section(s) 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders, [as it pertains to 3-10/150.00, Tactical Incidents; and/or 5-09/210.15, Vehicle Operation and Tactics], on or about October 31, 2017, while on-duty and assigned to County Services Bureau

as a Sergeant, Subject Charles J. Moylan failed to perform to the standards established for his position, when he neglected to follow policy and/or employ sound tactical principles during a call for service involving an alleged mentally ill suspect, which resulted in a vehicle pursuit, as evidenced by, but not limited to the following:

a. leaving his radio car running, with loaded firearms in the interior compartment, with the keys in the ignition, and the driver's door unlocked, resulting in his radio car being stolen by an alleged combative mentally ill suspect; and/or,

b. using a loaded pistol to strike the window of his radio car in an attempt to break the window and prevent the suspect from stealing his radio car; and/or,

c. employing poor and/or unauthorized tactics, during a vehicle pursuit, which included driving alongside and/or attempting to box in a vehicle occupied by an alleged mentally ill suspect that was known to have access to loaded firearms; and/or,

d. employing poor and/or unauthorized tactics, during a vehicle pursuit, which included driving alongside the suspect's vehicle and pointing a firearm at the suspect who was known to have access to loaded firearms.

2. That in violation of the Department's Manual of Policy and Procedures Section(s) 3-01/030.10, Obedience to Laws, Regulations, and Orders, [as it pertains to 3-10/150.00, Tactical Incidents; and/or 3-10/055.00, Use of Firearms Against Vehicles and/or Occupants of Vehicles], on or about October 31, 2017, while on-duty and assigned to County Services Bureau as a Sergeant, Subject Charles J. Moylan neglected to follow policy and/or employ sound tactical principles, during a vehicle pursuit that resulted in a deputy involved shooting, as evidenced by, but not limited to the following:

   a. attempting to detain and/or apprehend the suspect by intentionally putting his radio car in front of the suspect's vehicle and/or exiting his vehicle and positioning himself in the roadway, which put him in the path of the suspect's vehicle.

3. That in violation of the Department's Manual of Policy and Procedures Section(s) 3-01/030.10, Obedience to Laws,

Regulations, and Orders, [as it pertains to 3-10/150.00, Tactical Incidents; and/or 5-09/210.16, Post Pursuit Tactics], on or about October 31, 2017, while on-duty and assigned to County Services Bureau as a Sergeant, Subject Charles J. Moylan neglected to follow policy and/or employ sound tactical principles at the termination of vehicle pursuit, as evidenced by, but not limited to the following:

a. failing to create and/or implement a sound post pursuit tactical plan, and/or to follow standard felony traffic stop procedures; and/or,

b. taking independent action by approaching an alleged combative mentally ill suspect at the termination of a vehicle pursuit; and/or,

c. as a Field Sergeant, failing to oversee sound post pursuit tactics at the terminus of a vehicle pursuit.

RECOMMENDATIONS:

Based upon an assessment of mitigating and aggravating factors The EFRC Panel recommended the disposition of charges in this case be considered **founded – other.** Subject Charles J. Moylan [redacted] retired from County service on March 19, 2019 and **no discipline** may be applied to retirees.

HAF:DJW:djw



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOSEPH P. ESPOSITO • Chief Deputy District Attorney
VICTORIA L. ADAMS • Assistant District Attorney

JAMES GARRISON • Director

August 24, 2020

Captain Kent Wegener
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Non-Fatal Officer Involved Shooting of Sason Malca
J.S.I.D. File #17-0507
L.A.S.D. File #017-02051-8548-038

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 30, 2017, non-fatal shooting of Sason Malca by a member of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Sergeant Charles Moylan #[redacted]

Hall of Justice
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Los Angeles, CA 90012
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MEMORANDUM

TO:	CAPTAIN KENT WEGENER Los Angeles County Sheriff's Department Homicide Bureau 1 Cupania Circle Monterey Park, California 91755
FROM:	JUSTICE SYSTEM INTEGRITY DIVISION Los Angeles County District Attorney's Office
SUBJECT:	Non-Fatal Officer Involved Shooting of Sason Malca J.S.I.D. File #17-0507 L.A.S.D. File #017-02051-8548-038
DATE:	August 24, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 30, 2017, non-fatal shooting of Sason Malca by Los Angeles County Sheriff's Department (LASD) Sergeant Charles Moylan. It is our conclusion that Sergeant Moylan acted in lawful self-defense and defense of another.

The District Attorney's Command Center was notified of the shooting on October 30, 2017, at approximately 3:47 p.m. The District Attorney Response Team responded and was given a briefing and a walk-through of the scene.

The following analysis is based on police reports, witness statements, video recordings and photographs submitted by the LASD Detective Division, Homicide Bureau, which was tasked with investigating the case. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On the evening of Monday, October 30, 2017, [redacted] contacted the Los Angeles Police Department (LAPD). According to [redacted] her live in [redacted] Sason Malca, who had a history of mental health disorders including bi-polar disorder, was behaving erratically and aggressively.

Malca had not slept for several days and had engaged in violent and destructive behavior including destroying his computer, throwing various items and making a hole in a door at the residence. In addition, Malca had been audibly responding to imaginary voices. Because of Malca's irrational and angry conduct, [redacted] feared for his safety as well as for her own.

LAPD officers responded to the residence and transported Malca to the LAPD West Valley station. Tamara W., a registered nurse assigned to the System Wide Mental Assessment Response Team (SMART), met with Malca.[1] Tamara W. observed that Malca was hostile and uncooperative and that he was clenching his teeth and refused to speak.

Malca was placed on a 72 hour hold for mental health evaluation and was transported to Olive View Medical Center (OVMC) in the City of Sylmar. Malca was received at the OVMC psychiatric emergency department where he was admitted for treatment and observation.

On the morning of October 31, 2017, at approximately 6:43 a.m., LASD Deputy John Dall responded to the OVMC psychiatric department after receiving an emergency call regarding a violent patient (Malca) who was assaulting hospital staff members and attempting to escape.

Once at the psychiatric department, Dall encountered Malca inside a hallway and saw that he was armed with a metal mop handle. Malca ignored Dall's orders to put down the metal mop handle and instead ran towards Dall. Dall retreated quickly outside the building while Malca followed quickly after him with the metal mop handle. Outside, Malca demanded the keys to Dall's patrol car. Dall declined to turn over his keys and pointed his service weapon at Malca.

LASD Sergeant Charles Moylan, who was in his office at the OVMC working an overtime shift, also heard the broadcast regarding a disturbance caused by Malca at the OVMC psychiatric emergency department. Malca had used the metal mop handle to assault several staff members in the psychiatric emergency room before he escaped into the parking lot. Shortly after the broadcast, Moylan heard LASD Deputy John Dall request assistance.

Moylan responded to the psychiatric emergency department in a marked black and white Ford Explorer police vehicle. When he arrived, he observed Dall, members of the OVMC psychiatric department staff and Malca in the parking lot outside. Malca was holding a large metal mop handle which Moylan believed was a metal pipe. Dall, who had observed Malca raise the metal mop handle over his head as he stood approximately twelve feet away, was pointing his service weapon at Malca.

Dall did not have a Taser or other less lethal police weapon. Moylan, however, was equipped with a bean bag stun gun that was secured in the rear hatch of his Explorer. In addition to the bean bag shotgun, Moylan's vehicle was outfitted with a loaded AR-15 rifle and shotgun placed in a rack between the driver and passenger's seat. Both firearms were capable of being released with a single button inside the vehicle.

Moylan activated his vehicle's rear hatch release and exited his vehicle in order to grab and deploy his bean bag shotgun.[2] As he did so, Dahl called out and warned Moylan that Malca was armed with a metal rod and was coming towards him. Moylan unholstered his duty weapon and

[1] SMART teams consist of an LAPD officer and a clinician from the Los Angeles County Department of Mental Health. SMART teams are tasked with the duty of assessing and evaluating individuals with mental health issues who come into contact with law enforcement. Where appropriate, SMART teams divert individuals with mental health issues from jail to mental health facilities for further evaluation and treatment.

[2] The rear hatch release button could only be released from inside while the vehicle was running or from the exterior with a key.

pointed it at Malca. Malca continued to advance at him. At this time, Moylan did not fire at Malca for fear of hitting several members of the OVMC staff and Dall who were standing in the background behind Malca.

As Malca came closer to Moylan and his vehicle, Malca swung the mop handle at Moylan but missed. Malca dropped the handle, entered the driver's seat of Moylan's vehicle, immediately locked the doors and began to drive away.[3] As Malca drove away, Moylan unsuccessfully attempted to break the driver's side window of the patrol vehicle with his pistol but failed.

Moylan entered the passenger side of Dall's marked patrol vehicle and both men drove after Malca. As Dall drove, Moylan broadcast that his patrol vehicle had just been stolen and he requested assistance from the Santa Clarita LASD station, the LASD Aero (helicopter) Bureau and the Los Angeles Police Department (LAPD). Dall activated his overhead lights and sirens as he followed Malca.

Malca drove from the hospital parking lot to Olive View Drive to the 210 Freeway going west where he transitioned to the 5 Freeway going northbound and then to the northbound 14 Freeway where California Highway Patrol (CHP) officers joined the chase. Malca eventually exited the 14 Freeway at Newhall Avenue, drove southbound to Sierra Highway then eventually eastbound to Foothill Boulevard.

As Malca continued to evade the police, he drove through several red lights and on the sidewalk. Moylan and Dall attempted to box Malca in and force him off the road but were unsuccessful. During the pursuit, Dall and Moylan were joined by several other Sheriff's deputies including Deputy Craig Roberts, a K-9 unit driving a marked black and white vehicle. As the pursuit progressed, morning traffic continued to increase.[4]

Malca eventually turned south onto Balboa Avenue and then westbound onto Roscoe Avenue. Moylan, who was familiar with the area, was aware that the pursuit was headed towards the location of several schools.

During the pursuit, Moylan had observed several children in Halloween costumes walking to school. Based upon Malca's dangerous driving, Moylan feared that Malca would kill a pedestrian or a motorist. He also feared that Malca would discover how to operate the gun rack for the AR-15 and shotgun in the car and would arm himself with these dangerous weapons.

As the pursuit continued down Roscoe Avenue to White Oak Avenue, Moylan saw several people in the intersection, including pedestrians on the sidewalk, moving traffic and vehicles stopped for a red light. Moylan directed Dall to stop the patrol vehicle as soon as Malca slowed or stopped.

As Malca slowed down, Dall pulled in front of Malca's car and stopped. Moylan exited the vehicle and walked towards Malca, believing that Dall's position prevented Malca from moving

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[3] Video surveillance taken by a camera outside of the psychiatric emergency department is of poor quality but nonetheless shows Malca depart from the hospital in Moylan's patrol car shortly after Moylan arrives at the location.

[4] News footage of the pursuit shows that the streets taken by Malca during the pursuit were full of vehicular traffic.

forward. Roberts, in his K-9 vehicle, drove up and quickly parked behind Malca. Malca, however, immediately backed up and collided into Roberts' vehicle.[5]

After hitting Roberts' vehicle, Malca drove towards and around Moylan and Dall's patrol car, coming within two to four feet of Moylan, who was standing next to the rear of Dall's patrol car. Moylan feared that Malca would run him over, drive away and then strike one of the many pedestrians in the area crossing the street or on the sidewalk. In fear, Moylan fired his service weapon twice at Malca as he drove past and the bullets struck the driver's side of the patrol car.

After continuing for a short distance southbound down White Oak Avenue, Malca pulled over, parked and exited the vehicle. Moylan arrested Malca shortly thereafter. The pursuit lasted approximately 40 minutes.

Malca was transported to the Los Angeles County University of Southern California Medical center for treatment of a laceration to his left shoulder caused by a bullet or bullet fragment. When LASD investigators interviewed Malca after his arrest, Malca stated that he took Moylan's car so he could drive home. Malca claimed that he did not remember the police pursuit or having rammed the patrol car he was driving into Roberts' car.

Malca was criminally charged in case PA089845 with a variety of charges including carjacking (Penal Code section 215(a)), assault on a peace officer (Penal Code section 245(c)), evading a peace officer (Penal Code section 2800.2), assault with a deadly weapon (Penal Code section 245(a)(1)). The case is currently set on December 18, 2020 for a bail hearing.

LEGAL ANALYSIS

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. Kortum v. Alkire (1977) 69 Cal.App.3d 325, 333.

California law permits any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. CALCRIM No. 3470; *see also* People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082. In protecting himself or another, a person may use all

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[5] Roberts estimated that Malca was going twenty to twenty-five miles per hour as Malca reversed his vehicle and struck Roberts' patrol car.

the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. So long as the belief for self-defense is reasonable, the threat need not actually exist. Id.

Federal case law pertaining to excessive police force claims brought under section 1983 of Title 42 of the United States Code provides legal guidance regarding the criteria that should be considered in determining whether a police officer's use of force is reasonable. Specifically, the United States Supreme Court has held that the reasonableness of force used by an officer depends on the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. Graham v. Connor (1989) 490 U.S. 386, 396. "The reasonableness of the particular force used must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* "The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." Id. at 396-97.

CONCLUSION

The evidence reviewed in this investigation shows that Sason Malca engaged in a pattern of aggressive and highly dangerous conduct which caused Sergeant Moylan to reasonably believe that lethal force was necessary to prevent Malca from severely injuring or killing a member of the public.

At the hospital, Malca assaulted several staff members of the Olive View Medical Center psychiatric emergency department with a metal broom handle. When Dall responded to the psychiatric emergency department to stop this attack, Malca advanced towards him with the metal broom handle and refused to drop it even when Dall pointed his service weapon at him.

Malca continued his pattern of aggressive and dangerous conduct when he attempted to strike Moylan with the metal rod and stole Moylan's patrol vehicle which contained a loaded shotgun and AR-15 rifle.

Malca increased the danger he posed when he subsequently led Dall, Moylan, and personnel from the LASD, the LAPD and CHP, on a high-speed chase which lasted approximately 40 minutes over congested highways and city streets. During the pursuit, Malca drove at high speeds, through numerous red lights and on the sidewalk thereby placing many pedestrians and motorists in danger.

In addition, at one point during the pursuit, Malca reversed the patrol vehicle he was driving into a marked LASD vehicle; Malca subsequently drove within two to four feet of Sergeant Moylan.

After observing Malca's dangerous and escalating pattern of conduct, Sergeant Moylan reasonably feared that Malca would drive away and strike a pedestrian in the area. Moylan was

also reasonably afraid that Malca, who had already engaged in assaultive conduct towards several people including armed law enforcement officers, would gain access to the firearms in the patrol vehicle and use them.

In fear, Moylan fired his service weapon two times and struck Malca in the left shoulder.

Based on the escalating danger posed by Malca's action, the evidence reviewed in the present case demonstrates that Sergeant Moylan acted in lawful self-defense and defense of another when he used deadly force to stop Malca. We are therefore closing our file and will take no further action in this matter.